

REMARKS

This Amendment is being filed together with a Request for an RCE. Applicant respectfully requests a personal interview with the Examiner prior to the issuance of the first Office Action.

Claim 1 has been amended to more particularly point out and distinctly claim the present invention by reciting that the spacer cushion pads taper from the area of the heel portion toward the cuff portion. New claim 21 includes this feature and in addition recites that the transition piece is a cushion pad having a smaller thickness than the spacer cushion pads and that the transition piece is made from climate regulating fabric. Claims 1, 3-5, 7, 8, 10, 12, 14, 15, 17-19 and 21 remain for consideration.

Claims 1, 3, and 12 have been rejected as being anticipated by Haanen (DE 25 47 809). As amended, Claim 1 patentably distinguishes over Haanen. There is no teaching or suggestion in Haanen that the spacer cushion pads taper from the area of the heel portion toward the cuff portion. As aforementioned, the stocking of Haanen has cylindrical fitted cushions 2, 3 positioned in packets on the inner wall of the sock facing the wearer's foot. These cushions or pads fill the depression between the ankle bone and the Achilles tendon. The two spacer cushion pads 24, 25 of the present invention are designed in such a manner that they stand out distinctly relative to the transition piece 26, as described in paragraph 15 and shown in Figure 2. Therefore, the two spacer cushion pads 24, 25 of the present invention stand out relative to the Achilles tendon, whereas pads 2, 3 of Haanen are intended to fill the depression besides the Achilles tendon to create a regular surface. The sock of Haanen differs significantly from that defined in Claims 1,

3, and 12, structurally and functionally. Claims 1, 3, and 12 are patentable and should be allowed.

Claims 4, 5, 7, 8, 10, 14, 15, and 17-19 were rejected as being unpatentable over Haanen in view of Lambertz. The deficiencies of Haanen have been noted above with respect to claim 1. There is no suggestion in either Haanen or Lambertz of spacer cushion pads being constructed and arranged in the anatomical shape of the foot in the area of the Achilles tendon and tapering from the area of the heel portion toward the cuff portion. Each of claims 4, 5, 7, 8, 10, 14, 15 and 17-19 are dependent upon or based upon claim 1. The Examiner looks to Lambertz to supply the various missing features claimed. However, in addition to the deficiencies recognized by the Examiner there is the tapering feature of the spacer cushion pads which is not found in the disclosure of Lambertz. The combination of Haanen and Lambertz proposed by the Examiner would not produce the sock set forth specifically in claim 1. The present invention achieves a distance between the Achilles tendon and the shoe, as described in paragraph [0006], wherein rubbing and sliding stresses can be kept away from the Achilles tendon. Though relatively simple, the applicant's sock is a carefully crafted product that provides significant advantages for the user. Claims 4, 5, 7, 8, 10, 14, 15, 17, 18 and 19 are considered to be patentable over the combination of Haanen and Lambertz proposed by the Examiner and should be allowed.

Newly added claim 21 should be allowed for the reasons set forth with respect to claim 1.

While not a determinative factor and recognizing that different Patent Offices apply different examination standards, Applicant observes that two Patent Offices have now recognized


the inventive step of the present invention. Applicant has been granted a patent by the Chinese Patent Office. The European Patent Office (EPO) has decided to grant a Patent. Papers were previously provided concerning the actions from the Chinese Patent Office and the EPO.

Interestingly, both the Chinese Patent Office and the EPO examined the respective applications having the same prior art as relied upon by the Examiner in this case, namely, Haanen and Lambertz.

Applicant requests that the Examiner grant a personal interview with his counsel prior to issuance of a first Office Action in the event that the present Amendment does not place this case in condition for allowance. Favorable reconsideration and allowance of this application are solicited.

Respectfully submitted,

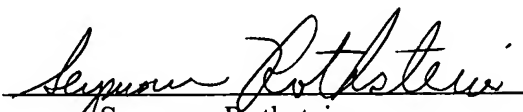
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CERTIFICATE OF MAILING

I hereby certify that this Amendment After Final Rejection and RCE is being deposited with the U.S. Postal Service, Express Mail Label No.: EM 125705998 US in an envelope addressed to: Mail Stop AF, Commissioner for Patent, P.O. Box 1450, Alexandria, VA 22313-1450 on December 3, 2008.


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